

BILL ANALYSIS

C.S.H.B. 562
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Law Enforcement
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, capital murder is not included as an offense requiring criminals to provide a blood sample or other specimens for the creation of a DNA record. According to the Department of Public Safety, the Texas DNA forensic database, CODIS (Combined DNA Index System), has collected 137, 246 samples since its inception in 1995 under House Bill 40 of the 74th Legislature. A total of 324 investigations that would have otherwise remained unsolved before this program have now been closed, and out of the 324 investigations, 183 were “cold hits.” This database has proven itself to be a valuable tool for law enforcement agencies and will continue to become even more valuable as technology further advances. Various law enforcement agencies would like to see the integrity of the CODIS system enhanced by including information identifying capital murder offenders in the database. The purpose of the bill is to include, in the DNA database, information from those convicted of capital murder in the future as well as those currently incarcerated for capital murder in either the Texas Department of Criminal Justice or the Texas Youth Commission.

RULEMAKING AUTHORITY

It is the committee’s opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. C.S.H.B. 562 adds Section 411.1481 to Subchapter G, Chapter 411, Government Code. This section would provide for the collection of DNA samples from offenders convicted of capital murder under Section 19.03 of the Penal Code who are incarcerated in the Texas Department of Criminal Justice or the Texas Youth Commission, as appropriate, for the purpose of creating a DNA record. Procurement, analysis, and maintenance of these DNA samples would follow the processes and rules given by current law in Section 411.148 of the Government Code.

SECTION 2.

(a). This section provides that C.S.H.B. 562 would not become effective until the director of the Department of Public Safety certifies that the state has received the funds necessary to cover the additional costs associated with the collection of DNA samples from offenders covered under this Act.

(b). This section provides for retroactive collection of DNA samples from capital murder offenders currently incarcerated in the Texas Department of Criminal Justice.

(c). This section provides for retroactive collection of DNA samples from capital murder offenders currently incarcerated in the Texas Youth Commission.

EFFECTIVE DATE

This Act takes effect on the date on which the director of the Department of Public Safety certifies to the Governor, Lieutenant Governor, and Speaker of the House of Representatives that the state has received funds from the federal government or from other sources in a sufficient amount to pay all costs to the state

associated with taking samples or specimens from all inmates serving sentences for an offense under Section 19.03 of the Penal Code, and all juveniles committed to the Texas Youth Commission who have been adjudicated for delinquent conduct in violation of Section 19.03 of the Penal Code for the purpose of creating a DNA record under Subchapter G, Chapter 411, Government Code, as required by this Act.

COMPARISON OF ORIGINAL TO SUBSTITUTE

House Bill 562 originally amended Section 411.148(a) of the Government Code to add offenses under Section 19.03 of the Penal Code (capital murder) to the list of offenses for which an inmate of the institutional or other penal division must provide a DNA sample. It also amended Section 411.150(a) of the Government Code to add offenses under Section 19.03 of the Penal Code to the list of offenses for which a juvenile committed to the Texas Youth Commission must provide a DNA sample.

Rather than adding capital murder offenses under Section 19.03 of the Penal Code to current language regarding collection of DNA, C.S.H.B. 562 creates an entirely new section of the Government Code which applies only to inmates convicted of capital murder. The code provision that would apply to capital murder offenders under the original bill (Section 411.148, Government Code) states that an inmate “shall provide” DNA specimens “if the inmate has not already provided the required specimen under other state law and if the inmate is ordered by a court to give the sample or specimen or is serving a sentence for an offense under...Section 19.03, Penal Code (capital murder).” The section proposed in C.S.H.B. 562 provides that the institutional division or commission shall obtain samples “as appropriate...for the purpose of creating a DNA record.” The substitute puts the burden for taking a specimen on the Department of Public Safety, whereas the original put the burden for providing a sample on the inmate.

In its original version, this bill applied only to persons beginning their sentence on or after September 1, 2003. C.S.H.B. 562 provides instead that collection of DNA under this Act would include persons currently incarcerated for capital murder and gives deadlines for such retroactive procedures.